

283

In re application of: Clark, et al.

Serial No. 09/842,002

Filed: April 25, 2001

For: OUTPUT CHOKE FOR D.C. WELDER AND METHOD OF USING SAME

ASST. COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

Sir:

Transmitted herewith is an amendment in the above-identified application.

The fee has been calculated as shown below.

Claims as Filed or Amended						
(1)	(2) Claims Filed or Remaining After Amendment	(3)	(4) Highest No. Previously Paid For	(5) Present Extra	(6) Rate	(7) Total Amount
Total Claims	* 56	Minus	** 56	0	\$18	\$ 0.00
Indep. Claims	* 4	Minus	*** 4	0	\$84	\$ 0.00
Total Additional Fee For this Amendment --->						\$ 0.00

- \* If the entry in Column 2 is less than the entry in Column 4 write "0" in Column 5  
\*\* If the "Highest No. Previously Paid For" is less than 20 write "20".  
\*\*\* If the "Highest No. Previously Paid For" is less than 3 write "3".

A check in the amount of \$ \_\_\_\_\_ to cover the required Fee is enclosed.

☒ **General Authorization to Charge Deposit Account For All Required Fees, Fees Under 37 C.F.R. 1.17, or All Required Extension of Time Fees.** Should any additional fees be required in connection with this application, during the entire pendency of the application, the Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Account No. 06-0308. This transmission form is submitted in triplicate.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, DC 20231, on 03-11-03

R. Cox  
(SIGNATURE)

03-11-03

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Clark, et al.  
For : OUTPUT CHOKE FOR D.C. WELDER  
AND METHOD OF USING SAME  
Serial No. : 09/842,002  
Filing Date : April 25, 2001  
Gr. Art Unit : 2832  
Date of Last Office Action : September 20, 2002  
Examiner : Tuyen T. Nguyen  
Our Docket : LEE 2 02188-4

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**SECOND AMENDMENT**

Asst. Commissioner for Patents  
Box Non-Fee Amendment  
Washington, D.C. 20231

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Patents, Washington, DC 20231, on 09-25-02

R. Cox  
(SIGNATURE)

09-25-02

Dear Sir:

Applicants have received and reviewed the Office Action dated September 20, 2002. The Examiner indicated that the Office Action is responsive to the Amendment filed June 20, 2002 and received by the Patent Office on June 26, 2002. The Examiner indicated that all the pending claims are subject to a restriction requirement pursuant to 35 U.S.C. §121.

As the Examiner is aware, the present patent application is the fifth patent application filed concerning this invention. One of these patent applications issued as U.S. Pat. No. 6,184,684. Two of the five patent applications have been abandoned, namely Ser. No. 09/184,149 filed November 2, 1998 and Ser. No. 09/816,498 filed March 26, 2001. Two patent applications are presently pending, namely the present patent application and Ser. No. 09/534,583 filed March 27, 2000. Prior to the present Office Action, an election requirement had never been raised by either Examiner Shaw or Examiner Nguyen. Indeed, in the present application, Examiner Nguyen entered an Office Action dated June 4, 2002 which did not require Applicants to make an election pursuant to 35 U.S.C. §121.

As this late stage of prosecuting this patent application and the series of patent applications that have been previously before Examiner Nguyen, Applicants respectfully request that the Examiner reconsider the restriction requirement and withdraw such requirement.

Applicants also traverse the Examiner's restriction requirement, if such requirement is maintained. The present invention is directed to a novel output choke for an arc welder. The output choke is designed to overcome the limitations of past chokes for an arc welder relating to size, saturation and inflection points of the choke. The output choke includes a high permeability core with an area having a cross-sectional shape and an air gap, wherein the air gap has a gradually converging width between two edges. In one configuration of the air gap, the air gap has a diamond shape; however, other shapes can be used such as, but not limited to, an oval shape or other curvilinear shapes. When a diamond shaped arc gap is used, the diamond shape can be substantially symmetrical, or non-symmetrical.

Figures 8-10, 12, 12A, 13, 14 and 14A all disclose output chokes that include a high permeability core with an area having a cross-sectional shape with an air gap, wherein the air gap has a gradually converging width between two edges. Applicants submit that the pending claims are all directed to such an output choke. Therefore, all the figures identified by the Examiner relate to the same species of the invention. Consequently, an election should not be required. MPEP §808.01 and 808.02.

Furthermore, due to the extensive prosecution of the five patent applications to date relating to the present invention, it is believed that the Examiner has located and considered all the relevant art related to the present invention. As such, the consideration of the pending claims would impose no further burden on the Examiner as such burden relates to conducting further prior art searches. The Examiner has relied upon the same primary reference in the present and past patent applications as a basis of rejecting the claims. Indeed, the Examiner has not a) identified a separate classification of the listed figures, b) identified a separate status in the art for each of the listed figures, or c) shown that each figure requires a different field of search. MPEP §808.02. For at least the reasons set forth above, Applicants traverse the restriction requirement.

The Examiner required Applicants to identify the elected alleged species. The Examiner indicated that claims 22-25, 27-33, 35-56, and 58-70 are pending. Applicants note that claims 71-77 are also pending in the above-identified patent application. Claims 71-77 were filed with a preliminary amendment on May 28, 2002. The Examiner also indicated that no generic claim was pending. Applicants submit that claim 58 is a generic claim.

Pursuant to the Examiner's restriction requirement, Applicants elect the alleged species identified in FIGURES 6 and 8. The pending claims associated with this alleged species are claims 29-33, 36-43, 45-48, 53-56, 58-60, 62, 63, 66-70, and 75-77.

Respectfully submitted,  
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